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Regional arrangements for the promotion and protection of human rights

Report of the Secretary-General

I. Introduction

1. Regional arrangements concerned with the international promotion and protection of human rights have been established within the three existing regional intergovernmental organizations. In Africa, there is such an arrangement within the Organization of African Unity (OAU); its founding instrument is the African Charter on Human and People's Rights, 1981. The regional human rights mechanism for the Americas is located within the Organization of American States (OAS) and is based upon the American Convention on Human Rights, 1969. Finally, the European human rights system forms one part of the Council of Europe. Its founding instrument is the European Convention on Human Rights, 1950.

2. The present report is submitted to the General Assembly by the Secretary-General pursuant to resolution A/51/102 of 2 December 1996, in paragraph 9 of which the Assembly requested the Secretary-General to submit to the General Assembly at its fifty-third session a report on the state of regional arrangements for the protection and promotion of human rights and to include therein the results of action taken in pursuance of that resolution. In the same resolution, the Assembly had recalled its resolution 32/127 of 16 December 1997 and all its subsequent resolutions concerning regional arrangements for the promotion and protection of human rights, reaffirmed the fundamental role played by regional arrangements in the promotion and protection of human rights and referred to the emphasis the World Conference on Human Rights, held in Vienna in 1993, had placed on the establishment of regional and subregional arrangements where they did not already exist.

3. Moreover, in resolution 51/102 the Assembly had welcomed the continuing cooperation of the United Nations High Commissioner for Human Rights and the then Centre for Human Rights in the further strengthening of the existing regional arrangements and regional machinery for the promotion and protection of human rights, in particular with regard to advisory services and technical assistance, public information and education with a view to exchanging information and experience in the field of human rights.

4. The Assembly also welcomed the close cooperation of the High Commissioner for Human Rights/Centre for Human Rights in the organization of regional and subregional training courses and workshops in the field of human rights, high-level government expert meetings and a regional conference of national human rights institutions, stressed the importance of the programme of advisory

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services in the field of human rights, and welcomed the growing exchanges between the High Commissioner for Human Rights and a number of regional intergovernmental organizations dealing with human rights.

5. In this context, the present report focuses on three significant developments since the last report, namely: the Sixth Asia-Pacific Workshop on Regional Arrangements for the Promotion and Protection of Human Rights, held at Tehran; the Second Regional Conference on African National Institutions, held at Durban, South Africa; and the conclusion of a Memorandum of Understanding between the United Nations High Commissioner for Human Rights and the Government of Indonesia on 13 August 1998 concerning cooperation and protection in the field of human rights, which exemplifies a new arrangement founded on the principles expressed in the regional framework for human rights adopted at Tehran.

II. Sixth Asia-Pacific Workshop on Regional Arrangements for the Promotion and Protection of Human Rights

6. The Tehran Workshop was convened from 28 February to 2 March 1998 in the spirit of Commission on Human Rights resolution 1997/45 of 11 April 1997, entitled "Regional arrangements for the promotion and protection of human rights in the Asian and Pacific region", in which the Commission reaffirmed that regional arrangements played a fundamental role in promoting and protecting human rights as set out in international human rights law. The Tehran Workshop was the latest in a series of workshops on various human rights issues held in the Asian and Pacific region in previous years, namely, those in Manila (1990), Jakarta (1993), Seoul (1994), Kathmandu (1996) and Amman (1997).

7. In resolution 1997/45, the Commission endorsed the conclusions of the fifth workshop, including the recognition of the importance of step-by-step progress towards the establishment of a regional arrangement for the promotion and protection of human rights in the Asian and Pacific region, which must emerge from and be directed to the needs and priorities set by Governments of the region. The Commission encouraged all Governments in the Asian and Pacific region to consider further the establishment of regional arrangements for the promotion and protection of human rights, taking into consideration the conclusions of the fifth workshop and requested the Secretary-General to establish an open-ended team, comprising representatives of interested Governments of the region and, in consultation with national institutions and non-governmental organizations (NGOs), to ensure the effective preparation of the next workshop and to facilitate the development of regional arrangements.

8. The Secretary-General was also requested to give adequate attention to countries in the Asia-Pacific region through the allocation of a greater level of resources from existing United Nations funds to enable the countries of the region to benefit from all activities under the programme of advisory services and technical assistance in the field of human rights.

9. Moreover, the Commission encouraged States in the Asia-Pacific region to request assistance for such purposes as regional and subregional workshops, seminars and information exchanges designed to strengthen regional cooperation for the promotion and protection of human rights and encouraged all States in the region to ratify the major international human rights instruments, particularly the International Covenant on Civil and Political Rights, 1966, and the International Covenant on Economic, Social and Cultural Rights, 1966. It further encouraged all States and regional and subregional organizations to develop programmes for human rights education in the region.

10. The aims of the workshop were to reach agreement concerning the framework of a draft regional technical cooperation programme, indicating its objectives and proposed activities, and to identify the next steps in facilitating the process of establishing a regional arrangement for the protection and promotion of human rights.

11. As requested by the Commission in resolution 1997/45, in accordance with the conclusions of the Amman Workshop, an open-ended working team comprising Geneva-based representatives of interested Member States from the Asia-Pacific region held four meetings in Geneva (on 18 July, 30 October and 12 December 1997 and 12 February 1998) considering a variety of issues, including the provisional programme for the workshop, rules of procedure, a draft framework of the regional technical cooperation programme, an expert's background paper prepared for the workshop, as well as participation by national human rights institutions and non-governmental organizations. This preparatory process facilitated discussions at the workshop.

12. On 28 February 1998, the workshop was opened with statements by the Minister for Foreign Affairs of the Islamic Republic of Iran and the United Nations High Commissioner

for Human Rights. The workshop then discussed in detail the proposed areas of regional cooperation.

13. The workshop was divided into three working sessions: Session I, Experiences and best practices in building national human rights capacity in the Asian and Pacific region; Session II, Prospects and next steps for the development of a regional arrangement in the Asian and Pacific region: Achievements, prospects and options for the future; and Session III, Developing a regional technical cooperation programme in the Asian and Pacific region.

14. Many of the participants emphasized that there were no existing regional arrangements that could serve as an appropriate model for the Asia-Pacific region. A number of participants highlighted important human rights initiatives being conducted in their countries, including human rights education action plans; national plans of action in the field of human rights (including those currently being prepared); legislative reform; establishment and strengthening of national human rights institutions; signature and/or ratification of international human rights instruments; increased NGO participation in and contribution to the promotion and protection of human rights; technical cooperation projects; and improved remedies for victims of human rights violations, including compensation for victims of torture.

15. There was unanimous agreement that technical cooperation aimed at national capacity-building should be the foundation for any further move towards the establishment of a regional human rights arrangement and that regional cooperation was an essential prerequisite for such progress. A number of Member States emphasized the importance of the right to development in this regard. It was emphasized that progress towards a regional arrangement could only be made at a pace determined within the region. Views differed as to the promotion of subregional arrangements in general.

16. A consensus was reached as regards the central role which had been and would be played by the annual intergovernmental workshop, with the assistance of the open-ended team in Geneva. It was agreed there was no need to create an additional consultative mechanism for considering or facilitating the establishment of regional arrangements. The annual workshop, therefore, should be the key forum for discussion of initiatives for regional cooperation, including through the proposed technical cooperation programme. In this connection, suggestions were made that future annual workshops should include discussions of thematic issues, such as human rights education and the right to development, as a means of facilitating practical progress in regional cooperation.

17. The exchange of views concerning the strengthening of national human rights capacities by sharing of expertise, experiences and best practices was followed by a detailed review, at the third session, of preferred approaches for regional cooperation. Discussion focused on the objectives, activities, priorities and resources for regional technical cooperation.

18. The workshop adopted a framework of the regional technical cooperation programme in the Asian and Pacific region, aimed at strengthening national capacities for the promotion and protection of human rights as a means of facilitating possible regional arrangements. The following four areas of activity were identified in the framework: national plans of action for the promotion and protection of human rights and the strengthening of national capacities; human rights education; national institutions for the promotion and protection of human rights; and strategies for the realization of the right to development and economic, social and cultural rights.

19. A more detailed account of the Sixth Asia-Pacific Workshop may be found in the report submitted by the Secretary-General to the Commission on Human Rights on 12 May 1998 (E/CN.4/1998/50), in accordance with paragraph 27 of Commission resolution 1997/45. Annex I of the report presents the conclusions of the Workshop, and annex II, the framework of the regional technical cooperation programme in Asia and the Pacific.

III. Second Regional Conference on African National Institutions

20. The Second Conference of African National Institutions for the Promotion and Protection of Human Rights, held at Durban, South Africa, was co-sponsored by the Office of the United Nations High Commissioner for Human Rights from 30 June to 3 July 1998 and hosted by the South African Human Rights Commission with the assistance of the Commission on Gender Equality and the Public Protector.

21. Some 110 participants from 20 national institutions, State and non-governmental observers were in attendance at the Conference, which also benefited from the active support and participation of guests and representatives from national human rights institutions in Europe, Asia and North America.

22. The Conference was officially opened by President Mandela of South Africa, with keynote addresses presented by the High Commissioner for Human Rights and Mr. Justice Youssoupha Ndiaye, Chairman of the African Commission on Human and Peoples' Rights.

23. In the Durban Declaration of 3 July 1998, the Conference affirmed the participants' support for the principles enshrined in the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights. The Conference also recalled the Paris Principles relating to the status of national institutions, adopted by the General Assembly in its resolution 48/134 of 20 December 1993 concerning the status of national institutions for the promotion and protection of human rights; as well as the Vienna Declaration and Programme of Action, 1993 and drew attention to the progress made in international conferences on national institutions for the promotion and protection of human rights held in Paris (1991), Tunis (1993), Manila (1995) and Mérida (1997).

24. The Durban Declaration also welcomed the increasing international interest in the creation and strengthening of independent and pluralistic national institutions, particularly in Africa, and underlined the responsibilities of those institutions to promote human rights and provide effective redress when those rights are violated. The Declaration also emphasized the indivisibility, universality and interdependence of human rights in line with the Vienna Declaration and Programme of Action, the need for regional cooperation among national institutions with a view to strengthening their activities as well as the need to bring the collective voice of Africa to the promotion and effective use of African human rights instruments for the enforcement of human rights.

25. The Conference reiterated the importance of creating and developing national institutions in African countries in conformity with the Paris Principles, in order to ensure their credibility, integrity, independence and effectiveness. The Conference also underlined the principle of non-discrimination on grounds such as race, gender, ethnic and social origin, and religion, and emphasized the importance of each country adopting a national action plan for human rights in which national institutions should play a coordinating and consultative role.

26. The Conference affirmed that primary responsibility for human rights protection lay with the State and therefore that it remained incumbent upon States to establish national institutions for the promotion and protection of human rights with adequate funds and with the independence and impartiality necessary for them to carry out their mandates. Moreover, the Conference adverted to the enhancement of the work of national institutions within an environment of democracy and good governance alongside a functioning, independent judiciary and emphasized the importance of human rights education and the need for national institutions to devote special attention to the attainment of social, economic and cultural rights, including the right to development and the eradication of poverty and the effective monitoring of the realization of these rights.

27. The Conference underlined the importance of strengthening national institutions through international, regional and subregional exchanges and called upon existing national institutions, the Office of the United Nations High Commissioner for Human Rights and other relevant agencies to render the necessary support and advice to those States in the process of establishing national institutions.

28. The Conference urged the African Commission on Human and Peoples' Rights to adopt an appropriate resolution on national institutions, encouraged African States to ratify the Additional Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court of Human Rights before 10 December 1998, and for States parties to allocate increased resources to the African Commission on Human and Peoples' Rights. The Conference also recorded its support for the establishment of the International Criminal Court and welcomed the Ministerial Conference on Human Rights in Africa, scheduled to take place in Angola in October 1998.

29. As regards follow-up measures, the Conference requested the Coordinating Committee of African National Institutions to transmit the Durban Declaration to the United Nations Commission on Human Rights, the African Commission on Human and Peoples' Rights and the Ministerial Conference.

30. Finally, the Conference requested the Coordinating Committee of African National Institutions to submit a report to the Third Conference of African National Institutions on the progress made in the implementations of the provisions of the Durban Declaration.

IV. Memorandum of Understanding between the United Nations High Commissioner for Human Rights and the Government of Indonesia

31. On 13 August 1998, the Office of the High Commissioner for Human Rights and the Government of Indonesia signed at Geneva a Memorandum of Understanding for cooperation in the promotion and protection of human rights. It was signed by the High Commissioner for Human Rights and Indonesia's Permanent Representative in Geneva. This development serves as an illustration of the way in which Governments in the Asia-Pacific region can implement the framework of the regional technical cooperation programme adopted in Tehran, as described in section II above.

32. Under the agreement, which took effect on the date of signature, and remains valid for two years, the Office will cooperate with and assist the Government in the implementation of a number of technical cooperation programmes. The personnel assigned to this project, to be based in the office of the United Nations Development Programme (UNDP) in Jakarta, will have appropriate access to all parts of Indonesia to identify priority needs.

33. The technical cooperation to be extended by the Office will cover the areas of the Indonesian National Plan of Action for the Promotion and Protection of Human Rights and the strengthening of national capacities; human rights education; the Indonesian National Human Rights Commission and strategies for the realization of the right to development and economic, social and cultural rights. Progress in the implementation of the various programmes envisaged in the agreement will be measured through semi-annual reports to be submitted to the Office and to the Government.

34. The Memorandum of Understanding signals the successful conclusion of a process started in 1994, when the then High Commissioner for Human Rights/Centre for Human Rights and the Government of Indonesia signed a Memorandum of Intent on cooperation for the development and implementation of national programmes for the promotion and protection of human rights. The agreement also comes in the wake of the official launching on 25 June 1998 of Indonesia's human rights National Plan of Action.

35. The High Commissioner welcomed the agreement and expressed the hope that it would contribute to addressing the urgent concerns regarding human rights in Indonesia. This Memorandum of Understanding also constitutes the first specific action taken by a country in the Asia/Pacific region to implement the agreement reached at the Tehran Workshop in March 1998.